IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 22ND FEBRUARY 2007 / 3RD PHALGUNA 1928

Crl.MC.No. 459 of 2007()

ST.3917/2006 of CHIEF JUDICIAL MAGISTRATE COURT, PALAKKAD

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PETITIONER:

P. RAJAN, PROPRIETOR,
RAJA AUTO CONSULTING,
M.A.K. BUILDING,
NEAR MOTI MAHAL,
SHORNUR ROAD,
PALAKKAD.

BY ADV. SRI.VINOD KUMAR.C

RESPONDENTS:

STATE, REP. BY S.I. OF POLICE,
MANNARKKKAD,
THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY P.P. SRI. S.U. NAZAR.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 22/02/2007 ALONG WITH CRMC NO.461/07 , THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NOs. 459 & 461 OF 2007

Dated this the 22nd day of February, 2007

ORDER

The common petitioner in these two Crl.M.Cs. faces indictment in two separate prosecutions - both under Sec.138 of the N.I. Act and both initiated by the same complainant/ respondent herein. The proceedings were initiated in 2006. The petitioner had entered appearance through counsel; but had not appeared personally. Consequently, warrants of arrest have been issued by the learned Magistrate to secure the presence of the petitioner.

2. The petitioner is now willing to surrender before the learned Magistrate. The petitioner apprehends that learned Magistrate may not consider his application for bail on merits, in accordance with law and expeditiously. He therefore prays that directions may be issued under Sec.482 of the Cr.P.C. to the learned Magistrate to release the him on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned

Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

4. In the result, these Crl.M.Cs. are dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself, unless compelling and exceptional reasons are there.

Sd/-

(R. BASANT, JUDGE)

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//true copy// **P.S. To Judge**